

## REMARKS

Claims 1-50 were presented for examination. Reconsideration is requested.

### **Examiner's Response to Arguments**

Applicants request that the examiner carefully consider the remarks because it is believed that the cited bases for the remarks are inadequate and that the applicants and the examiner could be spared the time and expense of a potential appeal. If the examiner has any questions or comments about the response or an examiner's amendment, he is urged to contact applicant's attorney at the telephone number listed below.

In the examiner's "Response to Arguments," the examiner makes a blanket statement that "Shoff teaches a functionally equivalent of the claimed invention," and then proceeds to mischaracterize one of the arguments made in the previous official action, while not addressing other arguments. The examiner states that Shoff may in some instances differ in terminology from the claimed invention but teaches a functional equivalent. It is not clear what the examiner means by this, because there can be a number of different and not-obvious alternatives for accomplishing a similar result.

If anything, it is believed the examiner has it backwards: that the cited reference has some of the same words, but does not have the concepts that are in the claimed inventions.

### **Argument**

The examiner rejected claims 1-6, 12-22, 24-27, 29-39, and 41-50 under Section 102(e) as being anticipated by a patent publication to Shoff. Applicants traverse this rejection because Shoff does not disclose all of the elements of the claims; furthermore, Shoff does not provide a teaching or suggestion of the claimed systems or methods.

Claim 1 recites in part "the receiving of program content and episode content occurring by downloading before the beginning of an episode." In the Response to Arguments, the examiner states that "episode content must inherently be downloaded before it can ever be viewed, else [sic] there would be nothing to view." While it may be true that content must be downloaded before it can be viewed, the claim says that the receiving of the episode content

occurs by downloading “before the beginning of an episode.” The examiner has not indicated where the episode content is downloaded before the beginning of the episode.

For this feature, the examiner cites Figure 3 and paragraph 39 of Shoff. But Figure 3 merely shows a table with pointers to a URL or a memory location where supplemental content can be found. That content is not downloaded before the beginning of the episode but is pointed to for display during the episode.

Paragraph 39 similarly states that the program record in the data structure 44 holds pointers to storage locations within the continuous media server 42 which hold the video data streams of the programs corresponding to the program records. I.e., the content is at the head end, and not downloaded first.

Neither Figure 3 nor paragraph 39 (and it is also believed nowhere in the remainder of Shoff) is there any teaching or even suggestion to provide program content and episode content by downloading before the beginning of an episode.

This is not the only difference.

As pointed out before, but not addressed in the Examiner’s Response, claim 1 states that the client receives, from the server, messages “each with one of a plurality of message types indicating one of a plurality of types of interactivity related to the episode of the event.” The claim goes on to state: “the base software using the message type to cause to be displayed on the display content associated with that message type and in a form particular to the message type.”

In the present application, for example, ten polls, and ten trivia facts, could be downloaded before the beginning of the episode to a user device. The server then sends a message, e.g., “display poll no. 6.” Because the content for poll no. 6 has already been downloaded, the message can be short and can cause this previously downloaded content to be displayed. The different types of interactivity in this case could include, for example, a trivia question, a fun fact, or a poll question.

For this, the examiner cites paragraphs 15 and 44 of Shoff. Paragraph 15 states that an electronic programming guide (EPG) is stored in memory and is executable on a processor, and

that the EPG data field contains a pointer, URL, or other target specification to a target resource that supports the interactive content. Paragraph 44 is similar.

The examiner is taking the position that whether interactivity is on or off constitutes a plurality of types of interactivity. As previously noted, but not addressed in the Examiner's Response, this is not a reasonable interpretation in general, and specifically here makes no sense. The messages are designed to cause the software to cause the identified content to be displayed. The content, according to the claim, has been previously downloaded as indicated by the first subparagraph of the claim. It therefore does not make sense in this document for interactivity being "off" to be a message option from the server because the content would have already been downloaded. The examiner's point, taken to its logical conclusion, is that content is downloaded, and then the system provides a message saying that there is no content.

Walker, U.S. Patent No. 6,331,144, relates to a trivia game that is provided in conjunction with a slot machine. Walker is cited as a secondary reference for a rejection under Section 103(a) with respect to claims 7-11, 23, 28, and 40, with Shoff being the primary reference. Walker shows an electronic gaming system that allows a player to play a trivia game with the result improving the gambling odds.

The examiner cites language and says that Walker discloses that the trivia question game could be implemented in an alternative embodiment of a set top cable box. The portion of Walker that is cited by the examiner, col. 17, lines 26-34, actually makes no reference to a "set top cable box," but uses the term "set-top device" and says it could be "similar to a cable box" and would function as a modular device intended to be provided as an add-on. Walker is thus not disclosing a cable set-top box, but a portable box that looks like one. Walker also does not disclose providing episode and program content by downloading an advance of a program and then using message types from a server to indicate on or another types of interactivity, and the examiner has not cited Walker for this purpose.

Because Shoff does not teach or suggest all of the elements of claim 1, alone or in combination with Walker, claim 1 should be allowable, as should dependent claims 2-16, 42, and 43 for at least the same reasons as claim 1.

Independent claim 17 was also rejected as being anticipated by Shoff. The examiner uses the same citations that were used for claim 1, namely Figure 3, the Abstract, and paragraphs 15, 39, and 44. As indicated above, these references in Shoff do not teach or suggest “program content and episode content being downloadable before the beginning of an episode,” and also do not teach or suggest the step of the “server providing to the client message, each of one of a plurality of message types indicating one of a plurality of types of interactivity related to the episode of the event.

Claim 17 should therefore be allowable, as should dependent claims 18-35, 44, and 45 for at least the same reasons as claim 17.

With respect to claim 36, the examiner does not refer to the arguments presented before. The examiner continues to cite Figure 2 and paragraphs 14, 15, 29, 31, and 32 as showing the limitations of claim 36. Claim 36 has been amended for clarity to specify that there are message types for indicating content that is on a user device, other content that can be provided from the server, and that the technical director is responsive to content input on the fly. The cited portions of Shoff do not provide any functionality of this types, but as indicated above, has as its primary embodiment, one in which a user has a pointer to a memory location or to a URL to obtain content during an episode of a program. Claim 36 and dependent claims 37-41 should therefore be allowable.

The new independent claims also include downloading content before an episode and providing or receiving messages to access stored content. The cited references do not include this feature.

## Conclusion

The Shoff reference that is cited by the examiner does relate to interactive content for use with television programs. Applicants have, in fact, cited many references from international search reports and copending applications in this general category as well. Shoff refers to one method for accomplishing this, while the claims relate to a different method that is believed to be not shown or obvious based on any cited references.

All claims should now be in condition for allowance, and accordingly a notice of allowance is respectfully requested. If there are any remaining issues, the examiner is urged to contact applicant's attorney at the telephone number listed below.

Respectfully submitted,



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Michael A. Diener  
Registration No. 37,122  
Attorney for Applicant

Date: September 6, 2005  
  
Wilmer Cutler, Pickering  
Hale and Dorr LLP  
60 State Street  
Boston, Massachusetts 02109  
Tel: (617) 526-6454  
Fax: (617) 526-5000